

HONORABLE RICHARD A. JONES

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

vs.

BARNES & NOBLE, INC., et. al,
Defendants.

Case No. 2:11-cv-00485 RAJ

JOINT MOTION OF MICROSOFT,
BARNES & NOBLE, AND
BARNESANDNOBLE.COM TO (A)
LIFT STAY AND (B) DISMISS WITH
PREJUDICE ALL CLAIMS OF
MICROSOFT AGAINST BARNES &
NOBLE AND
BARNESANDNOBLE.COM AND THE
DEFENSES AND COUNTERCLAIMS
OF BARNES & NOBLE AND
BARNESANDNOBLE.COM

NOTED FOR: FRIDAY, JUNE 1, 2012

Plaintiff Microsoft Corporation (“Microsoft”), and Defendants Barnes & Noble, Inc. and barnesandnoble.com LLC (together “the Barnes & Noble Defendants,” and collectively with Microsoft, “the Parties”) respectfully move for an Order (a) lifting the stay in this Action and (b) dismissing, with prejudice and pursuant to Fed. R. Civ. P. 41(a)(2), Microsoft’s claims against the Barnes & Noble Defendants and the Barnes & Noble Defendants’ counterclaims and defenses against Microsoft. These are the only claims and parties that remain in this Action.¹

¹ Microsoft previously dismissed, without prejudice, its claims against Hon Hai Precision Industry Co., Ltd., Foxconn International Holdings Ltd., Foxconn Electronics, Inc., and Foxconn Precision Component (Shenzhen) JOINT MOTION OF MICROSOFT, BARNES & NOBLE, AND BARNESANDNOBLE.COM TO (A) LIFT STAY AND (B) DISMISS WITH PREJUDICE ALL REMAINING CLAIMS, DEFENSES, AND COUNTERCLAIMS – 1

On June 8, 2011, this Court entered an Order pursuant to 28 U.S.C. § 1659(a) staying this Action in favor of a pending ITC action involving the same parties (ECF No. 43). Microsoft and the Barnes & Noble Defendants have entered into a confidential settlement agreement. The ITC action was formally terminated on May 29, 2012. Pursuant to, and as required by, the terms of the Parties' settlement agreement, they now jointly move to (a) lift the stay in this Action and (b) dismiss, with prejudice, all claims of Microsoft against the Barnes & Noble Defendants and all defenses and counterclaims of the Barnes & Noble Defendants.

For the foregoing reasons, the Parties respectfully request that the Court grant their joint motion, lift the stay in this Action, and dismiss with prejudice Microsoft's claims against the Barnes & Noble Defendants and the Barnes & Noble Defendants' counterclaims and defenses. Each Party has agreed to bear its own attorneys' fees and costs in connection with this Action. A Proposed Order has been submitted herewith.

DATED this 1st day of June, 2012.

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Co., Ltd. on January 3, 2012 (ECF No. 45). Microsoft likewise dismissed, without prejudice, its claims against Inventec Corporation on April 30, 2012. (ECF No. 46). Nothing in this motion is intended to have any effect on Microsoft's dismissal (without prejudice) of its claims against these former defendants.

JOINT MOTION OF MICROSOFT, BARNES &
NOBLE, AND BARNESANDNOBLE.COM TO (A)
LIFT STAY AND (B) DISMISS WITH PREJUDICE ALL
REMAINING CLAIMS, DEFENSES, AND
COUNTERCLAIMS – 2

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JOINT MOTION OF MICROSOFT, BARNES &
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COUNTERCLAIMS – 3

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CERTIFICATE OF SERVICE

I, Susie Clifford, swear under penalty of perjury under the laws of the State of Washington to the following:

1. I am over the age of 21 and not a party to this action.

2. On the 1st day of June, 2012, I caused the preceding document to be served on counsel of record in the following manner:

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s/Susie Clifford
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